**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

(208) **COMPANY PETITION NO. 517 OF 1998**

Hindustan Petroleum Corpn. Ltd. ... Petitioner

Versus

Bindal Textiles Mills Ltd. ... Respondent

Ms. Suraiya Retiwala i/by Rustomji & Ginwala for Petitioner.

**CORAM : A.M. KHANWILKAR,J.**
**DATED : AUGUST 11, 2005**

**P.C.**

. Heard counsel for the Petitioner. None appears for the respondent though served. No reply opposing this petition has been filed. According to Petitioner, the goods were sold, delivered and supplied to the respondent company as per its requisitions. The aggregate amount of goods supplied between August, 1997 to September, 1997 would be Rs.65,830/-. Inspite of repeated reminders, this amount was not received. Eventually, petitioner sent statutory notice to the respondent company. Even that was of no avail. In fact no reply was given to the statutory notice. Interestingly, respondent has admitted the claim of the petitioner as can be seen from the communication sent by respondent company to the petitioner annexed to the petition. Eventually Petitioner filed the present petition under

Sections 433 and 434 of the companies Act on 12.5.1998. Before admission of the petition, the respondent was duly served. However, none appeared nor any reply was filed. Eventually this court was pleased to admit the petition on 19.12.1998. The admission of the petition has been duly advertised and published. Inspite of service, respondent has not chosen to appear before this court nor any reply is filed. In that sense, the averments made in the petition have been remained uncontroverted. From the documents on record, it is amply clear that the respondent has acknowledged the liability to pay the sum as demanded by the Petitioner. As mentioned earlier, no reply was given to the statutory notice or any reply has been filed opposing this petition to controvert the assertions made in the petition. In that sense, the respondent has failed to rebut the legal presumption arising that it is unable to pay its debt. Viewed in this perspective, the petition ought to succeed in terms of Prayer Clauses (a) and

(b). Ordered accordingly.

**(A.M. KHANWILKAR,J.)**